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AZ CORP COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL

Chairman

JIM IRVIN

Commissioner

MARC SPITZER

Commissioner

Arizona Corporation Commission

DOCKETED

OCT 23 2002

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IN THE MATTER OF THE APPLICATION OF
ARIZONA PUBLIC SERVICE COMPANY FOR AN
ORDER OR ORDERS AUTHORIZING IT TO ISSUE,
INCUR, OR ASSUME EVIDENCES OF LONG-
TERM INDEBTEDNESS; TO ACQUIRE A
FINANCIAL INTEREST OR INTERESTS IN AN
AN AFFILIATE OR AFFILIATES; TO LEND
MONEY TO AN AFFILIATES OR AFFIILIATES;
AND TO GUARANTEE THE OBLIGATIONS OF AN
AFFILIATE OR AFFILIATES

DOCKET NO. E-01345A-02-0707

ARIZONA PUBLIC SERVICE COMPANY'S
REPLY IN SUPPORT OF MOTION FOR PROTECTIVE ORDER

Arizona Public Service Company ("APS" or "Company") hereby submits this Reply in Support its Motion for Protective Order. Staff's October 21, 2002 Response to the Motion for Protective Order does not appear to understand the point of APS' proposal. Furthermore, Staff has failed to address the legal and policy arguments supporting the Company's proposal. Accordingly, APS respectfully requests that the Chief Administrative Law Judge ("ALJ") enter a Protective Order in the form proposed with the Company's Motion.

APS' Motion proposed a discovery management process for this case that is clearly within the ALJ's discretion—it did not take any position on, or in any way challenge, the "constitutional and statutory" authority of the Arizona Corporation Commission ("Commission") to generally request and receive information from public service corporations. Indeed, the Company's Motion and proposal stems solely in response to a

1 position that appeared to have been established by the Commission in the APS Variance
2 case that if any party to the proceeding received confidential information under any
3 circumstances, then all parties must receive that same information. APS would far prefer
4 the historical practice of allowing the Company to provide some competitively-sensitive
5 confidential information only to Staff, RUCO and similar public agencies, and not to
6 competitors of both itself and its affiliates. This option, however, appeared to have been
7 foreclosed by the position that the Commission took and Staff supported in the APS
8 Variance case.¹

9 Under these circumstances, APS proposed a compromise which allowed a tiny
10 fraction (far less than one percent) of the information provided in discovery to be
11 redacted. APS believes that the information redacted is irrelevant to the relief that APS
12 has requested—it simply appears from time to time on larger documents that are
13 otherwise responsive to Staff or Intervenor data requests. Nonetheless, when redacting the
14 information, APS provided sufficient context to allow any party reviewing the document
15 to determine whether the redacted information is relevant or necessary to their analysis of
16 APS' Application. Indeed, Staff has identified no redacted information that they believe is
17 necessary to their analysis of the Application nor explained why the process proposed by
18 APS is unreasonable using any specific examples that would allow the ALJ to evaluate the
19 reasonableness of APS' proposal.²

20 Further, APS does not believe that a same-day telephonic conference with the ALJ
21 to address access to redacted information is an "inequitable" or overly-burdensome

22 ¹ This historical policy is reflected in A.R.S. § 40-204(c), which recognizes that information
23 furnished to the Commission can be protected from public disclosure. APS indicated in the
24 original Motion that it would not oppose, and would indeed support, a Protective Order that
25 would allow Staff and RUCO access to redacted information, while adopting the process for
26 accessing redacted information proposed by APS for other parties.

² APS would strongly urge the ALJ to review APS' data request responses to Staff and
evaluate the scope, extent, and nature of the information redacted.

1 process that would delay analysis of the Application as suggested by Staff's Response.
2 Moreover, none of the merchant generator intervenors have filed an opposition to APS'
3 Motion, and APS and the merchant generators have been working cooperatively to
4 address access to confidential information and to enter into appropriate Protective
5 Agreements that include provisions for the limited redaction of information. It would be
6 unfortunate to jeopardize this progress by simply denying APS' Motion on the basis of
7 Staff's objections.

8 Accordingly, APS requests that the ALJ enter a Protective Order in the form
9 proposed in the Company's Motion. Alternatively, APS requests that the ALJ modify the
10 Protective Order proposed by APS to recognize that competitively-sensitive redacted
11 information can be provided in unredacted form to Staff and RUCO without thereby
12 requiring disclosure to merchant generators or other intervenors in this case. In the latter
13 case, access by intervenors to redacted information could still be addressed using the
14 process proposed by APS in its Motion.

15 RESPECTFULLY SUBMITTED this 23rd day of October 2002.

16 SNELL & WILMER

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23 CORPORATION LAW DEPARTMENT

24 By: 
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Attorneys for Arizona Public Service
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1 Original and 10 copies of the foregoing
2 filed this **23** day of October 2002, with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington
6 Phoenix, AZ 85007

7 Copies of the foregoing mailed, faxed or
8 transmitted electronically this **23** day of
9 October 2002, to:

10 All parties of record

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